

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT CLARKSBURG

THE KAY COMPANY, LLC,  
H. DOTSON CATHER, Trustee  
Of Diana Goff Cather Trusts,  
and JAMES E. HAMRIC III,  
and all other persons and  
entities similarly situated,

Plaintiffs,

v.

Case No. 1:13-CV-151  
Honorable John Preston Bailey

EQT PRODUCTION COMPANY,  
a Pennsylvania corporation;  
EQT CORPORATION,  
a Pennsylvania corporation;  
EQT ENERGY, LLC, a  
Delaware limited liability company;  
EQT INVESTMENTS HOLDINGS, LLC, A  
Delaware limited liability company;  
EQT GATHERING, LLC, a  
Delaware limited liability company; and  
EQT MIDSTREAM PARTNERS, LP,  
a Delaware limited partnership,

Defendants.

**SETTLEMENT AGREEMENT**

KNOW ALL PERSONS BY THESE PRESENTS:

This Settlement Agreement is entered into this 7 <sup>th</sup> day of February, 2019, by and between THE KAY COMPANY, LLC, H. DOTSON CATHER, Trustee of Diana Goff Cather Trusts, and JAMES E. HAMRIC III, (hereinafter "Plaintiff Class Representatives"), individually and as representatives, of the Class (hereinafter the "Class" or "Subclasses"), and defendants EQT PRODUCTION COMPANY, a Pennsylvania corporation; EQT CORPORATION, a

Pennsylvania corporation; EQT ENERGY, LLC, a Delaware limited liability company; EQT INVESTMENTS HOLDINGS, LLC, a Delaware limited liability company; EQT GATHERING, LLC, a Delaware limited liability company; and EQT MIDSTREAM PARTNERS, LP, a Delaware limited partnership, acting by and through their respective undersigned counsel.

Subject to Court approval, this Settlement Agreement is entered into to effect a full and final settlement and dismissal with prejudice of all claims asserted against EQT, in connection with the payment of royalties under certain oil and gas leases, in the above-captioned litigation except as described below:

## **RECITALS**

WHEREAS, on January 16, 2013, Plaintiff Class Representatives filed their Complaint in Civil Action No. 13-C-2 in the Circuit Court of Doddridge County, West Virginia, against EQT seeking, among other things, damages for alleged improper deductions of post-production expenses from their royalty payments and damages for breach of lease agreements, alleged breach of fiduciary duty, alleged fraud, alleged violation of the flat rate royalty statute (W. Va. Code § 22-6-8) and the West Virginia Consumer Credit and Protection Act (W. Va. Code § 46A-6-101, *et seq.*) and alleged punitive damages, all related to the alleged improper payment of royalties.

WHEREAS, EQT removed this matter to the United States District Court for the Northern District of West Virginia on May 31, 2013, as Civil Action No. 1:13-CV-151, and filed its answer and asserted affirmative defenses denying liability.

WHEREAS, Plaintiff Class Representatives filed their Amended Complaint on May 9, 2014, adding various allegations, to which EQT filed another answer and asserted affirmative defenses denying liability.

WHEREAS, after analyzing the facts and law applicable to the claims herein, and taking into account the burdens, risks, uncertainties, and expense of further litigation, as well as the fair, cost-effective, and assured method of resolving the claims of the Class under a Settlement Agreement, the undersigned Class Counsel and Plaintiff Class Representatives have concluded that this Amended Settlement Agreement is fair, reasonable, adequate and in the best interests of the Class.

WHEREAS, EQT has similarly concluded that the Settlement Agreement is desirable in order to reduce the time, risk, and further expense of litigation, and to resolve the claims of the Class.

WHEREAS, the Parties agree that while, as with many types of litigation, there may be various methods to calculate and distribute settlement proceeds (some of which may result in different settlement amounts to each party), the methods agreed to herein are believed to be fair, just and reasonable.

WHEREAS, the Parties agree that, pursuant to F.R.C.P. 23(b)(3), all Class Members shall have the right to exclude themselves (“Opt-Out”) from the class under Rule 23(d) and 23(c)(2)(B)(v) of the Federal Rules of Civil Procedure, as provided in this Settlement Agreement.

WHEREAS, the Parties have engaged in exhaustive discovery over the course of this litigation up to and including the conclusion of expert depositions which concluded on November 20, 2018.

WHEREAS, the defendants, having filed motions for summary judgment on all claims on or before August 31, 2018.

WHEREAS, the plaintiffs filed their motion for class certification on September 30, 2016, and defendants having opposed same, the Court, after briefing of same by all Parties, found a class action appropriate which satisfied F.R.C.P. 23(b)(3) and ordered that the class be certified as a F.R.C.P. Rule 23(b)(3) class action on September 6, 2017.<sup>1</sup>

WHEREAS, the Court therefore certified the following classes:

All EQT natural gas lessors that received or were due to be paid royalties from defendants and EQT's production or sale of natural gas which was produced within the boundaries of the State of West Virginia from their natural gas or mineral estates during the period beginning after December 8, 2008, and extending to the present (during any time within their leasehold period.) (See exception below.)

Subclass A - All EQT natural gas lessors with flat rate leases converted by operation of W. Va. Code, § 22-6-8 and that received or were due to be paid royalties from defendants and EQT's production or sale of natural gas which was produced within the boundaries of the State of West Virginia from their estates during the period beginning after December 8, 2008, and extending to the present (during any time within their leasehold period.).

Subclass B - All EQT natural gas lessors that received or were due to be paid royalties from defendants and EQT's production or sale of natural gas which was

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<sup>1</sup> There was excepted from this Class those lessors whose lease interests were acquired by EQT in purchases of stock, mergers or asset purchases of Stone Energy, Republic Energy, Trans Energy, and Statoil as set forth more specifically in the transactions set forth below:

- a. Purchase and Sale Agreement by and between Statoil USA Onshore Properties, Inc., as seller, and EQT Production Company, as buyer, dated April 20, 2016.
- b. Purchase and Sale Agreement by and among Republic Energy Ventures, LLC, Republic Partners VI, LP, Republic Partners VII, LLC, Republic Partners VIII, LLC, and Republic Energy Operating, LLC, collectively as sellers, and EQT Production Company, as buyer, dated October 24, 2016.
- c. Agreement and Plan of Merger by and among Trans Energy, Inc., EQT Corporation, and WV Merger Sub, Inc., dated October 24, 2016.
- d. Purchase and Sale Agreement by and between Stone Energy Corporation, as seller, EQT Production Company, as buyer, and EQT Corporation, as buyer parent, dated February 9, 2017.

Therefore, the notice will not be sent to those lessors and the published notice and the website will clearly state that the lessors of the above acquired leases are not members of this Class.

produced within the boundaries of the State of West Virginia from their estates during the period beginning after December 8, 2008, and extending to the present (during any time within their leasehold period,) and whose leases do not permit the deduction of post- production expenses under *Tawney*, except for those lessors holding flat rate leases converted according to W. Va. Code, §22-6-8.

Subclass C - All EQT natural gas lessors that received or were due to be paid royalties from defendants and EQT's production or sale of natural gas which was produced within the boundaries of the State of West Virginia from their estates during the period beginning after December 8, 2008, and extending to the present (during any time within their leasehold period,) and whose leases do permit the deduction of postproduction expenses under *Tawney*, except for those lessors holding flat rate leases converted according to W. Va. Code, §22-6-8.

There would be excepted from the class the officers and agents of any defendant or subsidiary of any defendant named in this lawsuit or any lawsuit involving the same or similar claims as those alleged in this lawsuit; any attorney for any such defendant; any attorney for any plaintiff in this lawsuit or in any lawsuit involving the same or similar claims as those alleged in this lawsuit against any such defendant; and any judicial officer who presides over this lawsuit or over any other lawsuit involving the same or similar claims as those alleged in this lawsuit against any such defendant.

WHEREAS, the Court having certified the class, appointed Marvin W. Masters and the Masters Law Firm LC and Michael W. Carey and the law firm of Carey, Scott, Douglas & Kessler, PLLC as Class Counsel and appointed the individual plaintiffs, The Kay Company, LLC, William Cather, Trustee of Diana Goff Cather Trusts and James E. Hamric, III, as class representatives for and on behalf of the Class.

WHEREAS, upon completion of discovery, the Parties entered into negotiations in an attempt to resolve the case by settlement and engaged a mediator to conduct mediation on November 19, 2018, which did not resolve the case. Thereafter, the Parties continued to mediate with respect to the case through the mediator up to and including November 23, 2018, and reached a tentative settlement to resolve the case pending resolution of details of terms thereof.

WHEREAS, the Parties continued to mediate with the chosen mediator up until Monday, December 10, 2018, when they confirmed an agreement as to the "Settlement Terms" signed by counsel of all Parties which terms are incorporated herein.

WHEREAS, the Parties wish to enter into this Settlement Agreement to formalize the Settlement Terms but acknowledge that this is the result of the compromise of disputed claims and shall not be deemed an admission of liability by either party.

WHEREAS, Plaintiff Class Representatives believe that it is in their best interests and the interests of the Class to enter this Settlement Agreement to avoid the time, expense and uncertainties of continued litigation in this complex action. Despite its belief that it is not liable for and has good defenses to the claims asserted and without admission of any wrongdoing of any kind, defendants believe that it is in their best interest to enter into this Settlement Agreement to avoid the time expense and uncertainty of litigation and to further its relationship with their lessors.

WHEREAS, while EQT believes this Settlement Agreement can and should be approved to avoid the time, expense and uncertainty of litigation, in the event the Settlement Agreement does not receive final approval from the Court or is terminated according to its terms, EQT expressly reserves any and all defenses available to it. Plaintiff Class Representatives likewise reserve their right to proceed with all claims if the settlement is not approved or is terminated according to its terms.

#### **AGREEMENT FOR SETTLEMENT PURPOSES ONLY**

This Settlement Agreement is for settlement purposes only. Neither the fact of nor any provision contained in the Settlement Agreement, nor any negotiations or proceedings related to the Settlement Agreement, nor any action taken under the Settlement Agreement shall constitute,

or be construed as, any admission of the validity of any claim or any fact alleged by Plaintiff Class Representatives in this or any related legal action, of any wrongdoing, fault, violation of law, breach of contract, or liability of any kind on the part of EQT or any admission by EQT of any claim or allegation made in any demand of, action against, or proceeding against EQT, or as a waiver of any applicable defense, including, without limitation, any applicable statute of limitations. Except for proceedings for approval of this Settlement Agreement and in any action or proceeding to enforce its terms, this Settlement Agreement shall not be offered or be admissible in evidence by or against Plaintiff Class Representatives, Class Members, or EQT, its predecessors, successors, or assigns, or the Class in any action or proceeding in any forum for any purpose whatsoever.

#### **AGREEMENT**

In consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Plaintiff Class Representatives, on behalf of themselves and the class, and EQT hereby contract, covenant and agree that the Royalty Claims are fully resolved, settled, compromised, extinguished and dismissed on the merits and with prejudice, subject to the approval of the Court, on the following terms and conditions:

NOW, THEREFORE, the Parties have agreed to settle all claims in this matter on the following terms and conditions set forth below, subject to the Court's approval and the Court's finding that this Settlement Agreement is a fair, reasonable and adequate settlement under Federal Rule of Civil Procedure 23(e).

## I. Definitions

1. **“Action”** means The Kay Co. et al. v. EQT Production Company, et al., Civil Action No. 1:13-CV-00151, in the United States District Court for the Northern District of West Virginia which is pending before the Court.
2. **“Administration Expenses”** expenses incurred in carrying out the terms of the Settlement Agreement, including fees and expenses of any experts or claims administrators who may present affidavits or testimony at the preliminary approval hearing or the final fairness hearing; and fees and expenses of the Claims Administrator in administering and carrying out the terms of the Settlement Agreement or the Preliminary Approval Order, including but not limited to the costs of the Notice Expert, costs of the Claims Administrator, and costs of the Claims Resolution Process, as well as the fees for any Special Master, expenses for printing and mailing of the Settlement Notice, costs of any notice by publication, website costs, post office box rental costs, responding to inquiries by Class Members, and implementing the plan of Administration. Administrative Expenses shall not include Costs of Litigation or Attorneys’ Fees.
3. **“Agreement”** means this Settlement Agreement.
4. **“Attorneys’ Fees”** refers to any award of attorneys’ fees requested by Class Counsel and awarded by the Court.
5. **“Bar Date”** means the date to be set by the Court after which date any further claims for compensation by Class Members will be lost and terminated.
6. **“Benefit Notice”** means the document to be prepared and mailed by the Claims Administrator within sixty (60) days of the entry of the Final Order and Judgment to all Class Members.

7.     **“Claim Form”** means the form or forms to be provided to each Class Member to affirm or dispute the Claims Administrator’s records on (a) the portion of the Compensation Period during which the Class Member owned a Covered Lease(s); (b) that the Class Participant agrees to the terms of the settlement; (c) to confirm the wells the Class Participant has an ownership interest in and (d) the amount of Settlement Payments to which the Class Participant is entitled. The Claim Form also will provide that the Class Participants (a) release EQT from claims as specified in this Settlement Agreement; (b) will warrant that the Class Participant is the owner of the Royalty Interests in the Wells during the Compensation Period; and (c) will agree to indemnify EQT against any other person who claims to own the same or part of the same wells and Royalty Interests which that Class Member also claims. Class Participant agrees to return any Settlement Payment that is determined to have been improperly made up to the amount of the settlement, if any, that he received. The Claim Form will also provide that EQT has agreed to not take any further deductions from the royalty for specific wells and leases at issue in this case, except as provided in this Settlement Agreement.

8.     **“Claim Resolution Decision”** means the Claims Administrator’s determination of any issues arising under Section VII.

9.     **“Claims Administrator”** means the contractor proposed by the Parties and approved by the Court to perform certain functions including but not limited to preparing and mailing Settlement Notices and Benefit Notices, receiving and processing Exclusion Requests and Claims Forms, determining whether the Minimum Required Approval Percentage has been met, conducting the Claims Resolution Process, determining Settlement Payment amounts, and disbursing Settlement Funds.

**10.**     **“Claims Deadline”** means a date, approximately thirty (30) days from the date of the Benefit Notice, by which all Class Members must submit a Claim Form to the Claims Administrator; the Claims Deadline will be specified in the Benefit Notice,

**11.**     **“Claims Resolution Process”** means the process set forth in Section VII.

**12.**     **“Class”** means the combined Subclasses as certified by the Court on September 6, 2017.

**13.**     **“Class Compensation Disbursement Trigger Date”** means the date on which all appeals of the Final Order and Judgment have been successfully resolved or the time for appealing the Final Order and Judgment has expired and no appeal has been taken.

**14.**     **“Class Counsel”** means Marvin W. Masters, The Masters Law Firm LC, Charleston, West Virginia; Michael W. Carey and Carey, Scott, Douglas & Kessler, PLLC, Charleston, West Virginia.

**15.**     **“Class Members”** means all Persons in the combined Subclasses as certified by the Court on September 6, 2017 who have not opted out as of the Date of Settlement.

**16.**     **“Class Participants”** means all Class Members who do not Opt-Out of this Settlement Agreement.

**17.**     **“Compensation Months”** means the number of months during the Compensation Period when the Lessor owned an interest in the Covered Lease and received a Royalty Payment. Where only a portion of the month is involved, then the month will be rounded up and counted as one month if greater than fifteen (15) days and rounded down and not counted if fifteen (15) or fewer days are involved.

**18.**     **“Compensation Period”** means the days between December 8, 2008, and up to and including December 31, 2017, or any days within that period where EQT was lessee of

leases of any Class Member upon which a well or wells were drilled, operated and producing and for which EQT owed royalty to any Class Member and/or paid royalty to a Class Member. For purposes of determining the period a Class Member is entitled to the compensation provided for herein under this Settlement Agreement, it is understood that the period is limited to the months the royalty owner is legally entitled to the rights to receive the royalty. If the period is less than the full period from December 8, 2008, to December 31, 2017, the period will begin in the month the Person acquired their interest and will end the month they transferred or no longer owned the interest. In calculating or including either the month the acquisition or transfer of ownership began or ended, the following applies: if the ownership was acquired in the first half of the month, it is to be rounded up. If acquired in the last half, it is rounded down. If the ownership is transferred in the first half, it is rounded down and if transferred in the second half, it is rounded up to include the full month.

**19. “Complaint”** means the Complaint and/or Amended Complaint in the Action.

**20. “Costs of Litigation”** means the costs incurred by plaintiffs’ Class Counsel in filing and litigating the case, otherwise referred to as “litigation costs.”

**21. “Court”** means the United States District Court for the Northern District of West Virginia, Wheeling Division, and specifically includes all judges and/or magistrate judges who are now assigned to the Action or who may be so assigned in the future according to the Court’s usual practices and procedures.

**22. “Covered Lease”** means any lease included in the Class.

**23. “Current Lessor”** means the owner of a Lease on the Effective Date except where the Lessor transfers the Covered Lease after the Effective Date.

**24.** “**Date of Settlement**” means the date of entry of the Final Order and Judgment approving the settlement and Settlement Agreement.

**25.** “**Days**” shall mean time calculated in accordance with Rule 6 of the Federal Rules of Civil Procedure.

**26.** “**Disputed Claims**” means conflicting claims by Lessors to Settlement Payments or Ownership Periods.

**27.** “**Division of Royalty Interest**” means the percentage of the Royalty Interest in the Covered Lease owned by the Class Member.

**28.** “**Effective Date**” means the date the Settlement Agreement is signed by all parties.

**29.** “**EQT**” means, collectively EQT Corporation and EQT Production Company, provided that for purposes of II.B-D only EQT Production Company will be the party implementing the same; and for purposes of release of liability hereunder, all listed Defendants, including, EQT Energy, LLC, EQT Investments Holdings, LLC, EQT Gathering, LLC, and EQT Midstream Partners, LP, and their predecessors, successors, parents, subsidiaries, affiliates, and assigns.

**30.** “**Exclusion Request**” or “**Opt-Outs**” means the Court approved procedure by which Class Members can elect to exclude themselves and opt out of this settlement.

**31.** “**Fee Award**” means an order or orders awarding attorneys’ fees and Costs of Litigation to Class Counsel.

**32.** “**Final**” means that (a) the Final Order and Judgment is a final, appealable order; and (b) either (i) no appeal has been taken from the Final Order and Judgment as of the date on which all times to appeal therefrom have expired, or (ii) an appeal or other review proceeding of

the Final Order and Judgment having been commenced, such appeal or other review has been finally resolved in such manner that affirms the Final Order and Judgment in all material respects.

**33. “Final Order and Judgment”** means the final, appealable order described in VIII.A. order and to be entered by the Court, approving this Settlement Agreement as fair, reasonable, and adequate under Rule 23(e) of the Federal Rules of Civil Procedure and making such other findings and determinations as the Court deems necessary and appropriate to effectuate the terms of this Agreement and concluding the case.

**34. “Flat Rate Converted Well”** means a well on a Flat Rate Lease where EQT pays or has in the past paid one-eighth royalty which was converted pursuant to W. Va. Code § 22-6-8.

**35. “Flat Rate Lease”** means an oil or gas lease where EQT pays a royalty based upon the existence of a producing well on the lease, and thus royalty is not inherently related to the volume of the natural gas produced and marketed from the well.

**36. “Formal Fairness Hearing”** means the hearing required by Rule 23(e)(2) of the Federal Rules of Civil Procedure to determine whether this Settlement Agreement should be approved as fair, reasonable, and adequate.

**37. “Interest Months”** means the number of months from December 8, 2008, through the end of the Compensation Period. Where only a portion of the month is involved, then the month will be rounded up and counted as one month if greater than fifteen (15) days and rounded down and not counted if fifteen (15) or fewer days are involved.

**38. “Lease”** means the document whereby EQT or its predecessors acquired the right to produce natural gas and associated minerals in exchange for a royalty payment.

**39.** “**Lessor**” means any Person leasing mineral rights to EQT under a Covered Lease.

**40.** “**Limited Optional Pooling Modification**” means the option for Class Participants with Leases located in Wetzel, Doddridge, Harrison, Marion, Marshall, Monongalia, Ritchie, Taylor, and Tyler Counties who do not currently have leases which include express provisions for pooling and unitization to execute recordable lease modifications to modify their Leases to include EQT’s standard pooling provision which in the form to be agreed by Class Counsel and Counsel for EQT Production Company which Class Participants shall execute and in return receive a two percent (2%) increase in their applicable royalty percentage not to exceed eighteen percent (18%) in total.

**41.** “**Magistrate Judge**” means United States Magistrate Judge James P. Mazzone, or his successor.

**42.** The “**Minimum Required Approval Percentage**” means 83% of the Class, measured by total volume of gas produced and sold attributable to Wells (based on 2017 volumes), must participate in the settlement or EQT Corporation and EQT Production shall have the right, in their sole and absolute discretion, to notify Class Counsel in writing that EQT Corporation and/or EQT Production have elected to terminate and dissolve this Settlement Agreement for all Parties and withdraw from the Settlement Agreement.

**43.** “**National Change of Address Database**” means the permanent change-of-address record database maintained by the U.S. Postal Service.

**44.** “**Qualified Settlement Fund**” means the trust authorized by United States Treasury Regulation 1.468B-1(c) and created to facilitate the establishment and payment of the Settlement Fund.

**45.** “**Notice Expert**” means the contractor jointly retained by the Parties to assist with preparing the Settlement Notice, Benefit Notice, Claim Forms and other related duties which is part of the Administration Expenses.

**46.** “**Objection Deadline**” means the deadline for a Class Member to make an objection to this Settlement Agreement under Rule 23(e)(5) of the Federal Rules of Civil Procedure.

**47.** “**Opt-Out**” means the right of Class Members to exclude themselves from the settlement by submitting an Exclusion Request.

**48.** “**Opt-Out Class Members**” means all Class Members who mail an Exclusion Request by the Opt-Out Deadline which is received by the Claims Administrator.

**49.** “**Opt-Out Deadline**” means the deadline approved by the Court for a Class Member to request exclusion from compensatory payments under this Settlement Agreement.

**50.** “**Parties**” means collectively, the Plaintiff Class Representatives and the EQT defendants [all parties].

**51.** “**Persons**” means natural or legal persons, entities, governmental units and organizations of any kind.

**52.** “**Plaintiff Class Representatives**” means THE KAY COMPANY, LLC, H. DOTSON CATHER, Trustee of Diana Goff Cather Trusts, and JAMES E. HAMRIC III.

**53.** “**Preliminary Approval**” means the Court’s preliminary approval of this Settlement Agreement pursuant to Rule 23 of the Federal Rules of Civil Procedure and entry of orders providing for Settlement Notice to Class Members.

**54.** “**Preliminary Approval Order**” means the order entered by the Court granting preliminary approval of this Settlement Agreement pursuant to Rule 23 of the Federal Rules of

Civil Procedure, approving the form and manner of the Settlement Notice and setting a date certain for the settlement fairness hearing.

**55.**     **“Release”** means the release which is a part of this Settlement Agreement.

**56.**     **“Released Parties”** means EQT PRODUCTION COMPANY, a Pennsylvania corporation; EQT CORPORATION, a Pennsylvania corporation; EQT ENERGY, LLC, a Delaware limited liability company; EQT INVESTMENTS HOLDINGS, LLC, a Delaware limited liability company; EQT GATHERING, LLC, a Delaware limited liability company; and EQT MIDSTREAM PARTNERS, LP, a Delaware limited partnership, and their predecessors, successors, and past and present parents, subsidiaries, assigns, affiliates, general and limited partners, co-working interests in the Wells, officers, directors, agents, attorneys, insurers, and employees.

**57.**     **“Royalty Claims”** means those claims asserted by the Plaintiff Class Representatives in this Action, individually and as representatives of the Class, which were litigated and settled pursuant to this Agreement, including claims for alleged breach of lease agreement as follows: (a) improper royalty payments and/or improper deductions; (b) improper volume; (c) improper measurement, improper sales prices, and (d) breach of fiduciary duty, fraud, violation of the West Virginia Consumer Credit and Protection Act (W. Va. Code § 46A-6-101, *et seq.*), violation of the flat rate royalty statute (W. Va. Code § 22-6-8) and punitive damages related to the above claims or set forth in the record of this case, all based upon the alleged failure to pay proper royalty.

**58.**     **“Royalty Interest”** means the royalty due a Class Member under a Covered Lease. Overriding royalty interests which are royalty interests carved out of a working interest and created by an oil and gas lessee or operator are excluded from this Settlement Agreement.

**59.**     **“Royalty Payments”** means those payments made to Class Members under Covered Leases as royalties.

**60.**     **“Settlement Fund”** means the fund established by EQT to pay the Settlement Payments to Class Participants and to pay the Fee Awards.

**61.**     **“Settlement Notice”** means the notice of settlement required by Rule 23(e) of the Federal Rules of Civil Procedure informing Class Members of this Settlement Agreement and their rights to receive the settlement proceeds allocated to them and to receive the settlement proceeds allocated to them or to object to the Settlement Agreement or to exclude themselves.

**62.**     **“Settlement Payments”** mean those payments made to Class Members who are Class Participants from the Settlement Fund.

**63.**     **“Tawney Compliant Lease”** means a lease that the U.S. District Court held in its January 31, 2018 and February 8, 2018 Orders in this case satisfied the requirements of West Virginia law allowing deduction of post-production expenses because it contained the following language:

The Lessee shall pay monthly to Lessor a royalty of one eighth (1/8) of the net proceeds realized from the sale of all oil produced and sold from the premises after deducting charges for making it merchantable and transporting the oil to the point of sale, and shall pay monthly to Lessor for all gas produced and sold from the Leased Premises, a royalty equal to one-eighth (1/8) of the Amount Realized (as defined below) by Lessee. The Lessor will be paid a royalty based on the volumes of oil and gas sold by Lessee and shall not be entitled to royalty payments for any volumes not sold, regardless if produced or measured at any point other than the point of sale. The “Amount Realized” is the amount received by Lessee for the sale of the gas minus any and all reasonable and actual post production cost and expenses incurred by Lessee and/or its affiliates between the wellhead and the point of sale, including, but not limited to, cost associated with the following: gathering and/or transporting the gas from the well to the point of sale (including line loss); and compressing (including the cost of electricity, gas or other fuel); and desulphurization and purification; and treating; and dehydrating; and extracting; and processing; and storage; and marketing; and sweetening; and removal of liquid or gaseous substances or impurities from the gas. Such expenses and cost shall include all severance, ad valorem, and other production related taxes charged to or incurred by Lessee. Lessee shall have the right to allocate post production costs and expenses in its reasonable discretion.

**64.** “**Tawney Non-Compliant Lease**” means a lease that the U.S. District Court held in its January 31, 2018 and February 8, 2018 Orders did not comply with the requirements of West Virginia law allowing deduction of post-production expenses in calculating royalty payments because it did not contain the language of a Tawney Compliant Lease.

**65.** “**Wells**” means the natural gas wells on the Covered Leases. Wells on EQT leases where EQT does not operate the well and pay the royalty are excluded from the settlement.

**66.** “**Wells Subject to More Than One Classification**” means that in the event a well is subject to more than one lease classification during the Compensation Period, the well shall be included as subject to the corresponding type of lease for the corresponding months of the Compensation Period.

## **II. Settlement Terms**

WHEREAS, on December 10, 2018, the Parties, after continuous negotiations, met and concluded terms of the settlement and agreed as follows:

### **A. Cash Settlement Payment**

EQT Production Company agrees that it will pay the sum of \$53.5 Million to the Settlement Fund which will be established to disburse the funds in accordance with the Settlement Agreement to be approved by the Court. None of the defendants, however, shall be released from liability hereunder until said payments are fully paid by or on behalf of EQT Production Company.

### **B. Agreement to Comply with the Court’s Orders Concerning Payment of Royalties Going Forward**

EQT agrees that it will comply going forward with the Court’s Orders issued to date with respect to the payment of royalties to Class Participants to the extent set forth below and

Class Participants agree that they also accept the Court's rulings and agree to be bound by those Orders in the particulars as set out below in more detail, to wit:

EQT will take no further deductions from owners of those lease interests that the Court ruled that EQT could not take deductions. For those leases that the Court determined were "Tawney Compliant," EQT will take deductions as set forth in section (C)(5) below.

Therefore, the Parties agree to the following "Calculation Methodology" is subject to Court approval.

### **C. Calculation Methodology (Royalty Method)**

Beginning the first of the month following receipt of the Final Order and Judgment ("the Royalty Method Effective Date"), the methodology for payment of royalty shall be:

#### **(1) Flat Rate Converted Leases**

For Flat Rate Leases converted (W. Va. Code § 22-6-8) including where wells extend to the Marcellus and deeper production (full definition includes all shales including and below the Middlesex Shale for the Soneya Formation) EQT agrees to pay the following:

(a) EQT agrees to pay Class Participants 100% of the royalty as calculated below, (Royalty Method) without any deductions, including any deductions for gathering or severance taxes, to comply with the Court's Orders issued to date with respect thereto, as relating to the lessee's duty to pay royalty to the flat rate lessors in this case (flat rate converted).

(b) Class Participants agree that for the period after December 31, 2017, to forbear from asserting any new claims for issues litigated and settled in this case, including but not limited to, claims related to deductions, pricing, volumes, severance tax deductions, breach of fiduciary duty, fraud, W.Va. Code Ann. 46A-6-101, *et seq.*, punitive damages, attorneys' fees (other than those approved by the Court from the Settlement Payment) and

prejudgment interest so long as the royalties paid under Class Participant Leases meet or exceed the amounts calculated under the applicable Royalty Method below.

**(2) Tawney Non-Compliant Leases**

(a) EQT agrees to pay Class Participants 100% of the royalty as calculated below (Royalty Method), without any deductions, including deductions for gathering or severance taxes, and to comply with the Court's Orders issued to date with respect thereto, as relating to the lessee's duty to pay royalty to the Tawney Non-Compliant lessors in this case.

(b) Class Participants agree that for the period after December 31, 2017, to forbear from asserting any new claims for issues litigated and settled in this case, including but not limited to, claims related to deductions, pricing, volumes, severance tax deductions, breach of fiduciary duty, fraud, W.Va. Code Ann. 46A-6-101, *et seq.*, punitive damages, attorneys' fees (other than those approved by the Court from the Settlement Payment) and prejudgment interest so long as the royalties paid under Class Participant Leases meet or exceed the amounts calculated under the applicable Royalty Method below.

**(3) Tawney Compliant Leases**

These leases are the leases which the Court ruled in its February 8, 2018 Order were compliant with the Tawney rules and that reasonable and actually incurred deductions pursuant to Tawney were permitted.

(a) EQT agrees to pay to Class Participants the royalty as calculated according to the Royalty Method less only the Tawney Compliant Deduction defined

below in order to comply with the rulings of the Court with respect to payment of royalty as determined in the Court's Order.

(b) Class Participants agree that for the period after December 31, 2017, to forbear from asserting any new claims for issues litigated and settled in this case, including but not limited to, claims related to deductions, pricing, volumes, severance tax deductions, breach of fiduciary duty, fraud, W.Va. Code Ann. 46A-6-101, *et seq.*, punitive damages, attorneys' fees (other than those approved by the Court from the Settlement Payment) and prejudgment interest so long as the royalties paid under Class Participant Leases meet or exceed the amounts calculated under the applicable Royalty Method below.

**(4) Royalty Method for Flat Rate Converted and Tawney Non-Compliant Leases.**

(a) Calculation methodology for wells drilled into the Marcellus and deeper production (full definition of Marcellus to include all shales including and below the Middlesex Shale of the Sonyea Formation), is that the royalty will be calculated for all volumes of natural gas produced and sold at the applicable percentage in the lease multiplied by 100% of the 1st of the month Texas Eastern (TETCO) M2 published IFERC Index Price per MMBTU.

If for any period of twelve consecutive months after the Royalty Method Effective Date, EQT actually first delivers more than 35 percent of its gas from Covered Leases from the formations specified above to the first receipt point of a pipeline with a published first of the month index price higher than TETCO M2, EQT shall calculate

royalties based on the volume weighted average first of the month index price of TETCO M2 and the additional published index within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

If for any period of twelve consecutive months, TETCO M2 is not one of the two highest pipelines by volume of actual first deliveries made by EQT to the first receipt point of pipelines having a published first of the month index price, with such deliveries being from Covered Leases from the formations specified above to the first receipt point of said pipelines, EQT shall calculate royalties based on the volume weighted average of the published first of month index prices of the said two highest by volume pipelines with such published first of month indices at which gas from the Covered Leases is actually first delivered by EQT into the first receipt point of such pipelines within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

(b) For wells drilled into non-Marcellus and shallower than Marcellus, (full definition to include all production shallower than the Marcellus including for sake of clarity as defined in subparagraph (a) above to, include all formations of the Middlesex Shale or the SONYEA Formation) the royalties will be calculated for all volumes of natural gas produced and sold at the applicable percentage in the lease multiplied at 100% of the first of the month Columbia Gas Appalachian (TCO) published IFERC Index Price per MMBTU.

If for any period of twelve consecutive months following the Royalty Method Effective Date, EQT actually first delivers more than 35 percent of its gas from Covered Leases from the formations specified above to the first receipt point of a pipeline with a

published first of the month index price higher than Columbia Gas Appalachian (TCO) published IFERC Index Price, EQT shall calculate royalties based on the volume weighted average first of the month index price of Columbia Gas Appalachian (TCO) published IFERC Index Price and the additional published index within the next full payment period after the twelve (12) consecutive months and shall continue to do for so long as the threshold continues to be met.

If for any period of twelve consecutive months following the Royalty Method Effective Date, Columbia Gas Appalachian (TCO) published IFERC Index Price is not one of the two highest pipelines by volume of actual first deliveries made by EQT to the first receipt point of pipelines having a published first of the month index price, with such deliveries being from Covered Leases from the formations specified above to the first receipt point of said pipelines, EQT shall calculate royalties based on the volume weighted average of the published first of month index prices of the said two highest by volume pipelines with such published first of the month indices at which gas from the Covered Leases is actually first delivered by EQT into the first receipt point of such pipelines, within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

**(5) Royalty Method for Tawney Compliant Leases.**

(a) Calculation methodology for wells drilled into the Marcellus and deeper production (full definition of Marcellus to include all shales including and below the Middlesex Shale of the Snyea Formation) the royalty will be calculated for all volumes of natural gas produced and sold at the applicable percentage in the lease multiplied at 100% of the first of

the month Texas Eastern (TETCO) M2 published IFERC Index Price per MMBTU less the Tawney Compliant Deduction defined below.

If for any period of twelve consecutive months following the Royalty Method Effective Date, EQT actually first delivers more than 35 percent of its gas from Covered Leases from the formations specified above to the first receipt point of a pipeline with a published first of the month index price higher than TETCO M2, EQT shall calculate royalties based on the volume weighted average first of the month price of TETCO M2 and the additional published index within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

If for any period of twelve consecutive months following the Royalty Method Effective Date, TETCO M2 is not one of the two highest pipelines by volume of actual first deliveries made by EQT to the first receipt point of pipelines having a published first of the month index price, with such deliveries being from Covered Leases from the formations specified above to the first receipt point of said pipelines, EQT shall calculate royalties based on the volume weighted average of the published first of month index prices of the said two highest by volume pipelines with such published first of the month indices at which gas from the Covered Leases is actually first delivered by EQT into the first receipt point of such pipelines, within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

(b) For wells drilled into non-Marcellus and shallower than Marcellus (full definition to include all production shallower than the Marcellus including for sake of clarity as defined in subparagraph (a) above to, include all formations of the Middlesex Shale of the Sonyea Formation) the royalty will be calculated for all volumes of natural gas produced and sold at the applicable percentage in the lease multiplied at 100% of the first of the month Columbia Gas Appalachian (TCO) published IFERC Index Price per MMBTU for Tawney Compliant Leases less the Tawney Compliant Deduction defined below.

If for any period of twelve consecutive months following the Royalty Method Effective Date, EQT actually first delivers more than 35 percent of its gas from Covered Leases from the formations specified above to the first receipt point of a pipeline with a published first of the month index price higher than Columbia Gas Appalachian (TCO) published IFERC Index Price, EQT or its successors, assigns and transferees shall calculate royalty based on the volume weighted average first of the month index price of Columbia Gas Appalachian (TCO) published IFERC Index Price and the additional published index within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

If for any period of twelve consecutive months following the Royalty Method Effective Date, Columbia Gas Appalachian (TCO) published IFERC Index is not one of the two highest pipelines by volume of actual first deliveries made by EQT to the first receipt point of pipelines having a published first of the month index price, with such deliveries being from Covered Leases from the formations specified above to the first receipt point of said pipelines, EQT shall calculate royalties based on the volume weighted average of the

published first of month index prices of the said two highest by volume pipelines with such published first of month indices at which gas from the Covered Leases is actually first delivered by EQT into the first receipt point of such pipelines, within the next full payment period after the twelve (12) consecutive months and shall continue to do so for so long as the threshold continues to be met.

**(6) The “Tawney Compliant Deduction”**

The Parties agree that for the Tawney Compliant Leases the actual and reasonably incurred, agreed upon post production deductions going forward will be twelve cents (\$0.12) per MMBTU for 2019 and subsequently twelve cents (\$0.12) per MMBTU adjusted annually on January 1 of each year based on the Consumer Price Index to account for inflation but not in any event less than twelve cents (\$0.12) per MMBTU. If the rate is changed, notice shall be provided to Tawney Compliant lessors.

**(7) NGL Processing Costs**

The Class Participants agree that in any claim for natural gas liquids (“NGLs”) for the time period before December 31, 2017, EQT will be entitled to full deduction for all third-party processing costs actually incurred. This provision would not apply to leases which expressly provide for separate royalty payments for NGLs and which also expressly prohibit NGL processing deductions.

**(8) Volumes**

Royalty to be based only on the volumes sold as measured at the first liquid trading point which is at the processing plant if the gas is to be processed and at the interstate pipeline if not processed or at a direct sale point.

## **(9) Pricing**

The Royalty Method above is deemed to satisfy all lessee price obligations for the payment of royalties for the issues settled herein. However, upon Court approval, the Parties agree that the index prices above for each of the groups of lessors is deemed to represent the reasonably highest price available in the locations at issue. If there is a significant change in circumstances which makes the methodology unreasonable in the future, then EQT agrees it will continue to adopt a method which satisfies its obligations as the lessee to market and sell the gas under the leases. EQT agrees that all royalty statements provided by EQT to Class Participants will identify the first of the month index prices for TETCO M2, TCO and any other Index utilized by EQT in calculating Class Participants' royalties as set forth above. EQT further agrees that it will maintain all historical first of the month index prices for TETCO M2, TCO and any other Index utilized by EQT in calculating Class Participants' royalties as set forth above for a period of three (3) years following the issuance of royalty statements containing the applicable Index price. Upon written request by a Class Participant to EQT Owner Relations, EQT Corporation, P.O. Box 23536, Pittsburgh, PA 15222-6536 (ATTN: Land Administration), EQT will provide the Class Participant with the first of the month index price for a specific month(s).

## **(10) Affiliate Sales**

The Royalty Method is deemed to satisfy all lessee sales and royalty obligations, regardless if sold to affiliate or non-affiliate since the price royalty owners will be paid on is an index price independent of affiliate sales, subject to all terms and conditions herein.

## **(11) Deductions**

The Royalty Method is deemed to be in lieu of and satisfy all lessee obligations related to deductions subject to all of the terms and conditions herein.

**(12) Severance Taxes Deductions**

The Royalty Method is deemed to be in lieu of and satisfy all lessee obligations related to severance taxes subject to all of the terms and conditions herein.

**(13) Royalties for Oil and Storage**

The Royalty Method does not apply to oil royalties or gas storage payments set forth in any lease covered by the Class.

**(14) Successors and Assigns**

Nothing in this Agreement shall prohibit, restrict or limit EQT's ability to sell, assign, sublease, or otherwise transfer any well or lease subject to this Agreement. However, EQT agrees that all of its duties and obligations, under this Agreement, including its prospective royalty payment obligations, are incorporated by reference into and made part of the leases subject to this agreement and, as such all duties and obligations of EQT under this Agreement shall transfer to and be binding upon any and all purchasers, assignees, sublessees and/or transferees of any wells or leases subject to this Agreement, subject to the exclusion of those certain wells and leases no longer owned by EQT as described in Paragraph E.2 below. In order to provide notice to such buyers, assignees, sublessees and transferees of any well or lease subject to this Agreement the Claims Administrator shall file this Agreement of record in each county wherein any wells and/or leases subject to this Agreement exist. Following EQT's sale, assignment, sublease or transfer of any well or lease subject to this Agreement, EQT shall not be liable for any purchaser's, assignee's, sublessee's or transferee's breach of this Agreement, including but not limited to breach of the royalty obligations hereunder and Class Participants'

sole remedy in the event of such a breach shall be against the purchaser, assignee, sublessee or transferee who breached the Agreement that occurs after said sale.

#### **D. Limited Optional Pooling Modification**

As part of this Settlement Agreement, EQT Production Company offers Class Participants with EQT Production Leases that do not contain language authorizing EQT Production to pool or unitize acreage covered by the Leases who agree to modify their Leases to include EQT's standard pooling provision set forth more specifically below, a two percent (2%) increase in their applicable royalty percentage not to exceed eighteen percent (18%) in total. The leases which may become subject to this option will be limited to the following counties: Wetzel, Doddridge, Harrison, Marion, Marshall, Monongalia, Ritchie, Taylor, and Tyler. The modification shall contain EQT's standard pooling provision which provides:

Lessee may pool or unitize any or all of the Leased Premises (and any or all strata) with other lands or interests to create pools or units of any size and shape, not to exceed 1,280 acres (plus 10% acreage tolerance); if larger pools or units are required or allowed by law, pools and units may conform to such size. Pools and units may contain one or more wells. Any well or operations in a pool or unit shall (except for royalties, which shall be allocated as set forth below) be considered a well or operations on the Leased Premises. A pool or unit may be created, changed, or cancelled by Lessee at any time (including after drilling): by: (1) mailing a written declaration-notice to Lessor, or (2) filing a declaration-notice in the applicable County real property records. To the extent permitted by law, Lessor waives rights to notice (except the above described declaration-notice), hearing and objection concerning any pooling or unitization. There shall be allocated to the portion of the Leased Premises in a pool or unit, a fractional part of the production from the pool or unit, using one of the following methods as determined by Lessee: (1) in the proportion that the Leased Premises' acreage in the pool or unit bears to the total acreage in the pool or unit; or (2) any other method or basis approved or allowable under law or governmental authority or that Lessee believes to be fair and appropriate. For royalty purposes, the production so allocated shall be deemed the entire production

from the portion of the Leased Premises included in the pool or unit. Lessee may use the entire Leased Premises for the operation of any pools or units that contain a part of the Leased Premises, including to drill for, produce, transport, and remove gas and oil regardless of location. The surface location of a horizontal/directional well which is producing in a pool or unit may or may not be located on the Leased Premises or lands pooled or unitized therewith.

#### **E. General Reserved Settlement Rights and Exclusions**

1. EQT reserves a right to terminate the Settlement Agreement entirely if the Minimum Required Approval Percentage is not met.
2. Covered Leases and associated wells to the extent EQT no longer owned them after December 31, 2017, due to a sale, exchange, or other divestiture entered into by EQT with third party transferees before the date of this Settlement Agreement are excluded from this Settlement Agreement (“Divested Leases”) with respect to the calculation of royalties under the Royalty Method and the Limited Pooling Optional Modification. However, Class Participants will receive their share of the monetary benefits of the Settlement Fund irrespective of whether EQT owned the Covered Leases and associated wells after December 31, 2017. The benefits of the Royalty Method and the Pooling Optional Modification going forward are limited to Class Participants that are not a Divested Lease and the wells on such Divested Leases (“Divested Wells”). If a Class Participant owned an interest in a Divested Lease or Divested Well, then the Royalty Method calculation of royalties does not apply. However, the Class Participant will receive the same monetary settlement benefit as all Class Participants with like circumstances as provided by their lease. For clarity, however, if EQT holds the right to certain strata under a Divested Lease(s) after December 31, 2017, then this agreement with respect to rights and duties to pay royalties in accordance with the Royalty Method are to be applied only to the lease interests and strata retained by EQT following the Royalty Method Effective Date. For the leases and wells that were not sold by EQT prior to the date of the settlement agreement, nothing will prohibit, restrict or limit EQT’s ability to sell, assign, sublease or otherwise transfer any such leases and wells in the future.
3. EQT reserves a right to exclude from the Settlement Agreement any Covered Leases and associated wells relating to Lessors that have opted out or may Opt-Out in the future.
4. EQT is to obtain a full and complete release of liabilities, except it is understood that NGL claims not resolved in this litigation are not included in this Settlement Agreement except as set forth in Paragraph C. 7. It is further understood that EQT will continue to maintain that it pays for the NGLs by

its methodology of paying Lessors for the BTU content of the gas. The Parties reserve all claims and defenses for any NGL claim.

5. The Parties agree that should there be an error in data and information provided to date and identified prior to final approval of the settlement by the Court which causes an increase in the deductions now known for Class Members such that the deductions as calculated by Plaintiffs would exceed \$46.2 Million (or \$200,000 more than the alleged \$46.0 Million calculated and claimed by Plaintiffs), based on the category of lease and amount of deductions above, EQT Production Company will pay up to an additional \$1 Million into the Settlement Fund in proportion to the additional deductions. If revising for such error and increase in deductions would cause the Cash Settlement Payment to exceed \$54.7 Million, then the Parties will negotiate potential additional payments. Should the Parties fail to reach an agreement to the above, then this issue may be submitted to the Court for resolution consistent with the settlement herein, and each Party reserves any and all rights to challenge or appeal any proposed resolution.

### **III. Cooperation: Preliminary Approval**

A. The Parties and their counsel agree to recommend that the Court approve the settlement and further agree to undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other reasonable steps and efforts that may be necessary or appropriate to implement the terms of this Settlement Agreement and to garner final approval.

B. Promptly after the Effective Date, the Parties shall submit this Settlement Agreement to the Court for its Preliminary Approval and shall move the Court for one or more orders that by their terms shall:

1. Preliminarily approve this Settlement Agreement;
2. Preliminarily approve the Fee Award proposed by Class Counsel and Costs of Litigation, and incentive awards;

3. Approve the forms of notice and direct that notice be disseminated to potential Class Members in accordance with the methods for dissemination recommended by the Notice Expert and approved by the Court;

4. Establish the Opt-Out Deadline and Objection Deadline; and
5. Schedule a Formal Fairness Hearing.

C. The Parties shall cooperate, assist, and undertake all reasonable actions to accomplish the above submission at a time to be set by the Court.

#### **IV. Settlement Notice; Opt-Out and Approval of Settlement**

##### **A. Settlement Notice**

The Claims Administrator will provide proper notice to the Class including by mail and other reasonable methods including by mailing Settlement Notices to all Persons who are Class Members, including those Lessors who were added during the Compensation Period. EQT will provide the Claims Administrator with a database of all Class Members with addresses for Lessors through December 31, 2017 of the Compensation Period. To the extent EQT is informed of the change of name or address to the Class Members prior to the Bar Date, EQT will provide that information to the Claims Administrator.

##### **B. Opt-Out Rights**

In accordance with Federal Rule of Civil Procedure 23(c)(2)(B)(v) and 23(e), Class Members shall be notified of their right to Opt- Out of the settlement. Each Class Member has the right to elect to Opt-Out of the class by mailing an Exclusion Request by the Opt-Out Deadline.

##### **C. EQT's Termination Rights**

In the event that the Minimum Required Approval Percentage is not met, EQT Corporation and/or EQT Production shall have the right, in their sole and absolute discretion, to

notify Class Counsel in writing that EQT has elected to dissolve this Settlement Agreement for all Parties and withdraw from the settlement. In the event EQT Corporation and/or EQT Production Company elects to exercise its termination rights under this Settlement Agreement, the Parties shall have no further obligations under this Settlement Agreement whatsoever.

After the mailing of Settlement Notice to the Class Members, up and until the Opt-Out Deadline set by the Court, the Claims Administrator shall provide counsel for Plaintiffs and EQT weekly updates regarding the names and total number of Class Members who Opt-Out. In addition, the Parties agree that counsel for the Class and EQT may make reasonable inquiries of the Claims Administrator regarding the nature of inquiries, questions or concerns being raised by any Class Member to the Claims Administrator. The Claims Administrator will provide a final report of whether the Minimum Required Approval Percentage has been met within twenty (20) days after the Opt-Out Deadline. EQT Corporation and/or EQT Production may notify Class Counsel and the Claims Administrator that they are exercising their termination rights defined above by sending a written notice within thirty (30) days after the Claims Administrator's final report.

## **V. Calculation of Settlement Payments**

### **A. Method for Calculation and Distribution of Settlement Fund.**

The Settlement Fund shall be distributed as follows:

1. The Court has made findings as to the rights of the various leases subject to this litigation. Therefore, the Settlement Fund will be distributed in accordance with the Court's findings and holdings with respect to each subclass.
2. There will be a minimum amount of \$200 paid to each Class Participant. Therefore, Class Participants will receive \$200 if their settlement amount is equal to or less than \$200. (Minimum Payments)

3. The remainder of the Class Participants will receive their proportionate share of the total proceeds as described below after deducting the Fee Award, litigation costs, the incentive payments to the Plaintiff Class Representatives and the amount of the total Minimum Payments

4. For the Flat Rate lessors and Tawney Non-Compliant lessors, the Claims Administrator will determine from EQT's data, the total of deductions for (a) severance taxes taken from these lessors who are Class Participants without the right to take severance taxes in their leases; (b) all other monetary deductions taken from their royalty; and (c) any reduction from royalty or price, for each of the Class Participant leases, wells and owners which is hereinafter referred to as the "Flat Rate/Non-Compliant Total".

5. For the Tawney Compliant Leases, the Claims Administrator will determine for each Class Participant lease, well and owner the total "Reasonable Deduction" by applying the cost of service rate (C.O.S.) as determined by plaintiffs' experts to each of the Tawney Compliant lessors' royalty calculation instead of the rate EQT actually applied. The Claims Administrator then will determine the amount of severance taxes taken from Tawney Compliant lessors without the right to take severance taxes in their leases. Then, the Claims Administrator will subtract the total Reasonable Deduction and severance taxes from the Total Deductions taken which will equal the Tawney Compliant Total Deductions.

6. The Claims Administrator will then add all the deductions taken for Flat Rate/Non-Compliant Total Deductions and the Tawney Compliant Total Deductions for a total of all deductions (Class Total Deductions).

7. The Claims Administrator will then divide the Class Total Deductions into each "Lessors' Total Deductions" to obtain a percentage for each Class Participant for the total

amount for that Lessor's deductions from all leases and all wells which results in the percentage of that Lessor's part of the Class Total Deductions.

8. The Claims Administrator will then multiply each lessors' percentage times the Net Amount (total payment of \$53.5 million dollars minus attorney fees and costs, incentive payments and the \$200 Minimum Payment) which results in each of the Class Participants' proportionate shares of the settlement.

## **VI. Monetary Terms**

### **A. Settlement Fund**

The Claims Administrator will establish a bank account for the Settlement Fund at a federally-chartered financial institution reasonably acceptable to EQT, Class Counsel, and the Court. The Settlement Fund will be established as a Qualified Settlement Fund within the meaning of Section 468B of the Internal Revenue Code of 1986, as amended, and all rules and regulations thereunder. The principal in the Settlement Fund account will be used to make Settlement Payments to Class Participants and to pay Fee Awards, litigation costs and incentive awards. All interest accrued will be used first to make Settlement Payments before implementing Section II.E.5 if there were errors in data and information provided to plaintiffs in this litigation which causes the total deduction of the total class to exceed \$46.2 million. Should there be any excess, then the interest will be paid to EQT after the Administration is complete.

### **B. Contributions to Settlement Fund.**

EQT Production Company will contribute to the Settlement Fund the sum of \$53.5 million, subject to the changes discussed in Section II.E.5 within thirty (30) days after it is determined that the Minimum Required Approval Percentage has been met or that such requirement has not been waived by EQT Corporation and/or EQT Production Company. EQT

Production Company shall have no obligation to contribute to the Settlement Fund for Class Members who Opt-Out and elect not to proceed with this Settlement. None of the defendants, however, shall be released from liability hereunder until said payments are fully paid by or on behalf of EQT Production Company.

C. Notice and Administration Expenses.

In addition to funding the Settlement Fund, EQT Production Company will be responsible for payment of the first \$2.0 million in Administration Expenses. If the Administration Expenses exceed \$2.0 million, then those excess Administration Expenses shall be assessed as Costs of Litigation. Class Members are responsible for any attorneys' fees and expenses incurred individually in connection with their claims submissions and resolution. Any Administration Expenses above \$2.0 million must be approved by the Court prior to the expenses being incurred.

The Notice Expert and the Claims Administrator shall submit monthly bills to EQT Production Company for approval and payment up to the \$2.0 million threshold. The Claims Administrator also shall provide copies of each bill to Class Counsel. All bills must be approved by the Court unless both Class Counsel and EQT agree to approve the bill. If Class Counsel or EQT Production Company objects to a bill, Class Counsel or EQT Production Company will identify each objectionable item on the bill. EQT will pay the undisputed items and Class Counsel and counsel for EQT Production Company will attempt to resolve the disputed charges subject to review by the Magistrate Judge of disputed charges which counsel cannot resolve.

D. Class Counsel Fees and Costs of Litigation.

Class Counsel will file an application for a Fee Award pursuant to Federal Rule of Civil Procedure 23(h) in the amount not to exceed 1/3 of the Settlement Fund for Class Participants,

plus Costs of Litigation. EQT will not object to Class Counsel's application for this Fee Award. The Fee Awards approved pursuant to this Section will be the only legal fees payable to Class Counsel in this Action, Fee Awards approved pursuant to this paragraph will be paid by the Claims Administrator from the Settlement Fund upon approval by the Court.

**E. Class Participant Compensation.**

Settlement Payments will be paid from the Settlement Fund to Class Participants who submit a completed Claim Form based upon Section V "Method for Calculation and Distribution of Settlement Fund" above.

**F. Data Verification and Maximum Contributions**

The Parties agree that should there be an error in data and information provided to date and identified prior to final approval of the settlement by the Court which causes an increase in the deductions now known for Class Members such that the deductions as calculated by Plaintiffs would exceed \$46.2 Million (or \$200,000 more than the alleged \$46.0 Million calculated and claimed by Plaintiffs), based on the category of lease and amount of deductions above, EQT Production Company will pay up to an additional \$1 Million into the Settlement Fund in proportion to the additional deductions. If revising for such error and increase in deductions would cause the Cash Settlement Payment to exceed \$54.7 Million, then the Parties will negotiate potential additional payments. Should the Parties fail to reach an agreement to the above, then this issue may be submitted to the Court for resolution consistent with the settlement herein, and each Party reserves any and all rights to challenge or appeal any proposed resolution.

**VII. Distribution of Compensation**

**A. Benefit Notice and Claim Form**

**1. Benefit Notice and Claim Form**

A Benefit Notice will be sent to each Class Member within sixty (60) days of the entry of the Final Order and Judgment and will be based upon the EQT payment database provided to Class Counsel by EQT pursuant to discovery production requests in this litigation and as may be updated as provided herein.

2. Claim Forms

A Claim Form will be mailed to each Class Member at the same time as the Benefit Notice. The Claim Forms will detail the Claims Administrator's records concerning (i) the portion of the Compensation Period during which the Class Member who is a Class Participant was the owner of a Covered Lease and received Royalty Payments; (ii) the Covered Lease(s) and Well(s) for which the Class Member who is a Class Participant is entitled to Settlement Payments; or (iii) the amount of Settlement Payments to which the Class Member who is a Class Participant is entitled. Class Members who are a Class Participant will be required to either sign and confirm the Claims Administrators records or provide a signed, written statement disputing them.

The Claim Forms will provide that the Class Participants (i) release the Released Parties for the claims; (ii) warrant the Class Participants Ownership Period in the Covered Lease during the Compensation Period; and (iii) indemnifies EQT in the event other claims are asserted by some other Person claiming all or any portion of the Settlement Payments made to such Class Member. The Claim Form will also include those provisions set forth in the Settlement Terms, constituting the agreements made by EQT and by the Class Members who are Class Participants.

For Class Participants eligible to elect the Limited Optional Pooling Modification, the Class Participants will be provided with a standard EQT pooling and unitization modification form provided by EQT which they may so elect, execute and return

precisely following the instructions for execution and return of pooling and unitization modification which will be mailed with the Claim Form.

Class Members will have forty (40) days after the Claim Form is mailed to return a completed Claim Form to the Claims Administrator or to dispute the content of the Claim Form.

3. Mechanism to Dispute the Claim Form; Claims Resolution Process

Disputed Claims shall be determined by the Claims Administrator based upon a review of EQT's records and the Claim Form submitted by the Class Member who is a Class Participant. The Claims Administrator shall submit a Claim Resolution Decision to the Class Members involved in the Disputed Claims. Class Members shall have fifteen (15) days from receipt of the Claim Resolution Decision to submit a completed Claim Form to the Claims Administrator if the Class Member disputes the claim. If the Claim Resolution Decision is not satisfactory to the Class Member involved in a Disputed Claim, the Claims Administrator shall leave that Class Member's Settlement Payments as an unresolved issue in the Qualified Settlement Fund, pending the presentation to the Claims Administrator of a final judgment regarding the Disputed Claim by a court of competent jurisdiction. The burden and all expenses shall be on the Class Member(s) to initiate a civil proceeding and to obtain a final judgment for the presentment to the Claims Administrator. However, in the event all parties to a Disputed Claim reach agreement prior to a final judgment, the Claims Administrator shall distribute the Settlement Payments upon receipt of a signed agreement executed by the parties and upon receipt of fully-executed Claim Forms from each party.

B. Bar Date.

The Court will be asked to set a Bar Date in the Final Order and Judgment. To be eligible to receive a Settlement Payment, a Class Member must have mailed a signed Claim Form by the Bar Date.

C. Claims Administrator.

1. Duties.

The Claims Administrator shall:

- a. Maintain and update the list of Class Members.
- b. Establish and maintain an “800” number telephone line for Class Member questions that is staffed by trained operators during normal business hours.
- c. Establish and maintain a website for providing Class Members and the public with information about this Settlement Agreement.
- d. With the assistance of counsel for the Parties, determine the period of time during the Compensation Period when each Class Member owned a Covered Lease.
- e. With the assistance of counsel for the Parties, calculate the amount of Settlement Payment to which each Class Member is entitled.
- f. Mail the Settlement Notice and publish a summary notice if specified in a notice plan approved by the Court.
- g. Verify addresses in the database against the National Change of Address Database and, as noted, through a third-party look up service.
- h. Receive Opt-Out requests and prepare a list of Opt-Out Class Members, including a report on whether the Class Member has been exceeded.
- i. Receive objections to this Settlement Agreement from Class Members and transmit copies to the Parties, the Magistrate Judge, and the Court.
- j. In consultation with the Parties and their separate Notice Expert, prepare the individual Benefit Notices and Claim Forms to be sent to the Class Members as required by this Settlement Agreement. Mail the Benefit Notices and Claim Forms to Class Members after the Final Order and Judgment is entered. Prepare any additional Benefit Notices and Claim Forms that become necessary as a result of the Claims Resolution Process.
- k. In consultation with the Parties, review Claim Forms and Class Member submissions and determine Class Member qualification for Settlement Payments.

- l. Inform Class Members of the Claims Administrator's determination of Class Member states and entitlement to Settlement Payments.
- m. Inform Class Members of Claim Resolution Decisions.
- n. Establish a bank account at a federally-chartered financial institution reasonably acceptable to EQT, Class Counsel and the Court for the Qualified Settlement Fund.
- o. Make the following disbursements from the Settlement Fund: (1) all Settlement Payments to Class Participants; (2) Fee Award and Costs of Litigation to Class Counsel as approved by the Court and (3) incentive awards to the named plaintiffs as approved by the Court.
- p. Determine the amount of Settlement Payments due to each Class Participant as based upon the terms and conditions of this Settlement Agreement and, where necessary, to hire experts to assist in the calculation of the amounts due to assure compliance herewith.
- q. Maintain all appropriate records relating to Class Members, to Covered Leases and title thereto, and to the payment of Settlement Payments and Fee Awards. The Parties shall be entitled to inspect the Claims Administrator's records upon reasonable notice and to request copies of any records of the Claims Administrator.
- r. Issue weekly reports of Claims Forms received, the status of claims and the Settlement Payments made.
- s. Issue Form 1099s to Class Participants and other necessary tax documents following payment of Settlement Payments.
- t. Provide, a Type II service auditor's report, including service auditor's opinion on the Claims Administrator's controls.
- u. At the close of the claim administration, provide EQT and Class Counsel with the final list of Class Participants, the original signed Claim Forms and pooling and unitization modifications executed under the Limited Optional Pooling Modification provision above, and copies of all documents filed with any applicable County Recorder's offices.
- v. Make every reasonable effort to determine and resolve inconsistencies in the responses of Class Members.
- w. Provide Class Counsel and EQT weekly updates regarding the names, attributable volumes, and total number of Class Members who Opt-Out.
- x. Determine whether the Minimum Required Approval Percentage has been met and issue a final report to provide Class Counsel and EQT containing the names, attributable volumes, and total number of Class Members who Opt-Out.

2. Selection of Contractors to Perform Claims Administrator Functions. (the Claims Administrator)

One or more contractors will be jointly selected by the Parties and approved by the Court to perform the Claims Administrator functions. Contractor or contractors will be jointly selected by Class Counsel and EQT's counsel subject to approval by the Court. Any disputes regarding the selection of contractors will be resolved by the Court.

**VIII. Court's "Settlement Approval Order"; Related Orders**

A. Approval Order

This Settlement Agreement is subject to and conditional upon (1) the issuance by the Court of the Final Order and Judgment granting final approval of this Settlement Agreement in accordance with Rule 23(e) of the Federal Rules of Civil Procedure, and (2) providing the below-specified relief which shall be subject to the terms and conditions of this Settlement Agreement and also subject to the Parties' performance of their continuing duties, rights and obligations hereunder. The Final Order and Judgment shall:

1. Declare that this Settlement Agreement as being fair, reasonable, adequate, not-collusive and in the best interests of the Class;
2. Dismiss the Action with prejudice and with costs to be awarded solely as provided in this Settlement Agreement, except that (a) the claims of the Opt-Out Class Members shall be dismissed without prejudice; and (b) the Court shall retain jurisdiction to the extent necessary to administer and enforce this Settlement Agreement;
3. Bar and enjoin all Class Members who are Class Participants from asserting Royalty Claims against any Released Party for the claims released herein, and provide that Opt-Out Class Members' claims shall not be barred and enjoined;

4. Order that the Class Members' claims of Class Participants are released, through the class period to December 31, 2017 as provided herein, except that Opt-Out Class Members' claims shall not be released;

5. Declare, adjudge, and decree that this Settlement Agreement provides the exclusive remedy for Class Members who are a Class Participant (and any successors-in-interest) with respect to any and all Royalty Claims against EQT that were litigated and settled in this Action. Plaintiff Class Representatives, Class Counsel, and EQT agree that this is the exclusive remedy approved by this Court to resolve this case on behalf of all Class Members who are Class Participants and therefore agree not to change, alter, or offer any separate or different settlement other than by this class action to Class Participants or encourage any Class Member to opt out of the Class or to enter into a separate settlement with EQT except solely to the extent such Class Member has previously opted-out of the Class prior to the date hereof or otherwise has pending litigation filed against any of the released parties as of the Effective Date and has not previously opted out of the class. EQT has provided notice to Plaintiffs' Counsel as to the identity of any Class Member who has pending litigation filed against any of the Released Parties as of the Effective Date and has not previously opted out of the class. EQT agrees that until entry of the Final Order and Judgment, prior to contacting opposing parties in such pending litigation concerning settlement, EQT will provide notice to Class Counsel;

6. Declare, adjudge, and decree that any Opt-Out Class Member may bring a separate suit;

7. Expressly determine under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and therefore expressly direct the entry of a final judgment as to

the claims of Class Members who are Class Participants, except the claims of Opt-Out Class Members; and

8. Reserve the Court's continuing and exclusive jurisdiction over the Parties and Class Members who are Class Participants to administer, supervise, construe, and enforce this Settlement Agreement in accordance with its terms for the mutual benefit of the Parties and Class Members who are Class Participants.

**B. Related Orders.**

1. Class Counsel will request that the Court, at the time of entry of the Final Order and Judgment, enter an Order approving their attorney fees, Costs of Litigation and incentive awards.

2. The Parties agree that they will make no objection to incentive payments up to \$50,000 per Plaintiff Class Representative subject to approval by the Court and to be taxed as Costs of Litigation.

**IX. Exclusive Remedy; Dismissal of Action; Jurisdiction of Court**

**A. Exclusive Declaratory, Injunctive and Punitive Damages Remedy for All Parties**

This Settlement Agreement shall be the exclusive remedy for all claims resolved in this litigation for Class Members who are Class Participants for claims for compensatory damages, declaratory and injunctive relief, punitive damages, and any other damages arising out of the Royalty Claims.

**B. Exclusive Damages Remedy for Class Members Who Are Not Opt-Out Class Members**

This Settlement Agreement shall be the exclusive remedy for any and all Royalty Claims, resolved in this litigation, of Class Members who are not Opt-Out Class Members as set forth herein against EQT and any and all other Released Parties. No Released Party shall be

subject to liability or expense of any kind to any Class Member who is a Class Participant with respect to any claim that was brought in this Action, except solely as provided herein. Upon entry of the Final Order and Judgment by the Court approving this Settlement Agreement, each and every Class Member who is not an Opt-Out Class Member and who are Class Participants shall be barred from initiating, asserting, or prosecuting any suit for released Royalty Claims against any Released Party for those claims which were resolved in this litigation.

C. Claims Not Adjudicated

The Court in this case made rulings in this case which affected the rights and remedies of all Parties to this litigation. Included in the decision was the Court's ruling that Plaintiffs' could not pursue a claim for recovery of any amount from NGLs or marketable liquid hydrocarbons which may have been processed out of natural gas of the Class Members' natural gas or in any other way separated from the marketed natural gas which may have been extracted from each lessors' wells. Therefore, EQT agrees that the right to pursue any claim for NGLs or liquid hydrocarbons by any and all Class Members is not released by this settlement except as set forth in II.C(7).

D. Claims for Opt-Out Members

Opt-Out Members may bring separate suits against the Released Parties. All applicable statutes of limitations are tolled from the time this Action was filed until sixty (60) days after the entry of the Final Order and Judgment, at which time the running of the statute of limitations would then recommence.

E. Continuing Jurisdiction of Court

The Court shall retain exclusive and continuing jurisdiction over the Action and over this Settlement Agreement including with respect to the performance of the terms and

conditions of this Settlement Agreement, to assure that all disbursements are properly made, and to interpret and enforce this Settlement Agreement's terms, conditions, and obligations. The Court shall have the power to approve the Parties' designation, appointment, and removal of contractors, and the execution of contracts as necessary and appropriate to assure the administration of this Settlement Agreement.

F. Disputed Claims

It is understood that this Settlement Agreement constitutes a compromise of highly disputed claims, and that neither (a) the consideration provided for herein, (b) the entry into the Settlement Agreement or stipulation to the Final Judgment, nor (c) any recital contained herein, will be construed, interpreted, or admissible as an admission of liability by or on behalf of any party, all such liability being expressly denied, regardless of whether this Settlement Agreement becomes Final. In the event that the Settlement Agreement does not become Final, then this Settlement Agreement shall be of no force or effect, and the Settlement Agreement and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party, shall not be deemed or construed to be an admission or evidence of any liability or wrongdoing by EQT or of the truth of any of the claims or allegations contained in the complaint or any other pleading, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in this Action, or in any other action or proceeding. The Parties expressly reserve all of their respective rights, claims and defenses in this action if this Settlement Agreement does not become final. In the event this Settlement Agreement is not given final approval or this settlement is not finalized for any reason whatsoever, the Parties acknowledge and agree that EQT remains free to challenge in this Court or on appeal whether the Class was properly certified in this Action, and the parties will not argue that anything

discussed leading to this Settlement Agreement or included in this Settlement Agreement has the effect of advancing or defeating the propriety of class certification in this Action.

## **X. Representations and Warranties**

A. Class Counsel represent and warrant that they have the authority to enter into this Settlement Agreement on behalf of the Plaintiff Class Representatives, subject to Court approval.

B. EQT represents and warrants that it has all requisite corporate power and authority to execute, deliver, and perform this Settlement Agreement. The execution, delivery and performance by EQT of this Settlement Agreement and the consummation of the actions contemplated herein have been duly authorized by all necessary corporate action. This Settlement Agreement has been duly and validly executed and delivered by EQT, and constitutes its legal, valid, and binding obligations.

## **XI. Miscellaneous Provisions**

A. Neither this Settlement Agreement, whether approved or not approved, nor any exhibit, document, or instrument delivered hereunder, nor any statement, transaction, or proceeding in connection with the negotiation, execution, or implementation of this Settlement Agreement is intended to be or shall be construed as or deemed to be evidence of an admission or concession by EQT of any liability or wrongdoing, or of the truth of any allegations in the Complaint, or of the appropriateness of class certification in this or any other action or context and no such document, statement, determination, or other matter shall be admissible in evidence for any such purpose in this or any other proceeding.

B. This Settlement Agreement and the term sheet agreed to by the Parties on December 10, 2018 as incorporated herein ("Settlement Terms") constitutes the entire agreement by and among the Parties with regard to the subject of this Settlement Agreement and

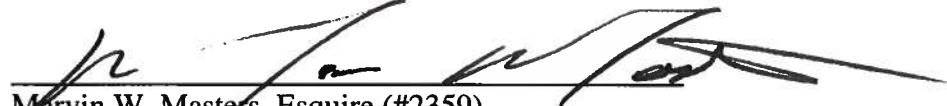
41 South High Street  
Columbus, OH 43215

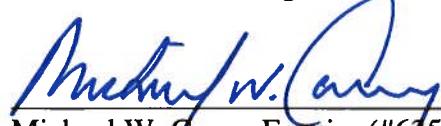
E. All applications for Court approval or Court orders required under this Settlement Agreement shall be made on notice to all signatories hereto or their counsel of record.

F. This Settlement Agreement shall be construed in accordance with West Virginia law.

**XII. Termination of This Agreement**

This Settlement Agreement shall be automatically terminated; without notice, if the Court declines to enter its Final Order and Judgment. Except as otherwise specifically provided in this Settlement Agreement, in the event of termination, all Parties shall be restored to their respective positions in this Action immediately prior to execution of this Settlement Agreement.

  
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